

# **ABANDONED BARGES—PART II**

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## **HEARING**

**BEFORE THE**

**SUBCOMMITTEE ON  
COAST GUARD AND NAVIGATION**

**OF THE**

**COMMITTEE ON  
MERCHANT MARINE AND FISHERIES  
HOUSE OF REPRESENTATIVES**

**ONE HUNDRED SECOND CONGRESS**

**SECOND SESSION**

**ON**

**DRAFT LEGISLATION TO PROHIBIT ABANDONMENT OF  
BARGES, AND FOR OTHER PURPOSES**

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**JUNE 10, 1992**

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# CONTENTS

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Hearing held June 10, 1992.....	Page 1
Statement of:	
Anderson, John, Associate Director for Transportation Issues, Resources, Community and Economic Development Division, U.S. General Ac- counting Office.....	6
Prepared statement.....	33
Chubb, Comdr. William, Deputy Chief, Marine Environmental Protection Division, U.S. Coast Guard.....	6
Coble, Hon. Howard, a U.S. Representative from North Carolina.....	4
Fields, Hon. Jack, a U.S. Representative from Texas.....	4, 5
Justice, William S., Senior Evaluator, U.S. General Accounting Office .....	6
Laughlin, Hon. Greg, a U.S. Representative from Texas .....	6
Martin, Cornel, Vice President, Southern Region, American Waterways Operators.....	6, 10
Prepared statement.....	50
North, Capt. Robert C., Deputy Chief, Office of Marine Safety, Security and Environmental Protection, U.S. Coast Guard.....	6, 8
Prepared statement.....	40
Pickett, Hon. Owen B., a U.S. Representative from Virginia .....	5
Tauzin, Hon. W.J. (Billy), a U.S. Representative from Louisiana, and Chairman, Subcommittee on Coast Guard and Navigation .....	1
Additional material supplied:	
Subcommittee staff: Text of H.R. 5397.....	27

## ABANDONED BARGES—PART II

WEDNESDAY, JUNE 10, 1992

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON COAST GUARD AND NAVIGATION,  
COMMITTEE ON MERCHANT MARINE AND FISHERIES,  
*Washington, DC.*

The Subcommittee met, pursuant to call, at 2 p.m., in room 2123, Rayburn House Office Building, Hon. W.J. (Billy) Tauzin (Chairman of the Subcommittee) presiding.

Members present: Representatives Tauzin, Pickett, Laughlin, Lancaster, Fields, and Coble.

Staff present: Elizabeth Megginson, Staff Director; Rusty Savoie, Professional Staff; Catherine Gibbens, Clerk; Bill Wright, Professional Staff; Harry Burroughs, Minority Professional Staff; Lieutenant Matt Szigety; Margherita Woods, Chief Minority Clerk; Rebecca Dye, Minority Counsel; Cyndy Wilkinson, Counsel; Sherry Steele, Minority Professional Staff; Sue Waldron, Press Secretary; Greg Lambert, Counsel; Melanie Barber, Counsel, and Jim Adams, Coast Guard Fellow.

### STATEMENT OF HON. W.J. (BILLY) TAUZIN, A U.S. REPRESENTATIVE FROM LOUISIANA, AND CHAIRMAN, SUBCOMMITTEE ON COAST GUARD AND NAVIGATION

Mr. TAUZIN. The Committee will come to order.

I welcome the Members of the Subcommittee to this hearing today, to hear testimony on legislation to protect our Nation's waterways from environmental problems resulting from abandoned barges.

This Subcommittee held one previous hearing on this issue and heard from witnesses representing the Coast Guard, the U.S. Environmental Protection Agency, the Louisiana Department of Environmental Quality, and a representative of the scrap metal recycling industry.

Today we will hear additional testimony from the General Accounting Office, the Coast Guard, and the American Waterway Operators.

On June 5, 1991, this Subcommittee asked the General Accounting Office to conduct a thorough investigation of the abandoned barge problem including an inventory of the number of abandoned barges throughout the country, the extent of environmental problems associated with abandoned barges, and the adequacy of Federal laws to address the problems associated with abandoned barges. The General Accounting Office has not completed the study but

has produced sufficient information upon which to base or legislate.

The staff has worked closely throughout the year with the General Accounting Office and has met with several agencies to and groups to prepare this draft legislation, which I intend to introduce today. I am hopeful that this hearing will underscore the need for legislation and will answer questions which you might have about the problem of abandoned barges.

In drafting the legislation, I instructed the staff to ensure that we adequately and fully address the problems associated with abandoned barges without unnecessarily burdening the inland barge industry with unnecessary costs or paperwork. This legislation is the result of close consultation with the industry and the regulatory agencies.

The primary purpose of this legislation is to prevent future marine pollution from abandoned barges. You will hear today from GAO that there are 1,300 known abandoned vessels along our Nation's waterways.

These vessels become an easy and cheap method of disposing of hazardous cargo, hazardous waste products, or petroleum products. They have contributed to numerous water pollution incidents and millions of dollars in clean-up costs to the Federal Government.

I was surprised to learn that abandoning a barge in our waters is not a violation of law. As long as the barge does not obstruct navigation, it may, under current law, simply be abandoned.

In addition, the law does not mandate that barges have a permanent identification number so that the owner can be found. This legislation will prohibit the abandonment of a barge and will give the Coast Guard full authority to remove and dispose of an abandoned barge.

It will provide penalties for abandonment of a vessel and impose liability for removal on the owner of the vessel. It will also require that all barges be numbered for easier identification of the owner.

The bill requires that the Coast Guard attempt to locate the owner before the vessel is removed and provides sufficient due process to ensure that no vessel will be disposed of until the owner is first given the opportunity to properly remove the vessel.

There are existing abandoned barges which will need removal at some point in time. Those that pose the greatest current threat to the environment by containing either oil or hazardous material can be disposed of using the Oil Pollution Trust Fund or the CERCLA Superfund.

We may at some point in the future need to determine whether and how much funding will be needed to remove those that may be potential targets of midnight dumpers, but which are not a current threat.

I want to express my appreciation to AWO for its help in preparing this legislation and encourage them to continue to work with the Subcommittee to further refine the bill.

In addition, I want to encourage the industry to seek innovative methods of disposing of barges which are no longer usable. Just as the oil industry has found an environmentally beneficial use for outdated oil rigs in the "Rigs to Reefs" program, there may be a beneficial use for these vessels or the metal contained in them.

Before we begin the hearing, and we have other additional statements, I want to take a brief moment of the Committee's time to make a couple of introductions and make a couple of points.

I would like to take this opportunity to recognize someone who has contributed greatly to the work of this Committee over the last four years. Commander Jim Underwood will be assigned new duties as the Commanding Office of the Coast Guard Cutter *Confidence* which is stationed in Cape Canaveral, Florida. His last day here as a Coast Guard Liaison Officer is this Friday.

I am sure all of us have had opportunities to call upon Commander Underwood to assist us with questions or cases involving the Coast Guard and his responsiveness and helpfulness have been invaluable. He has provided extraordinary assistance to this Subcommittee, not only with the annual Coast Guard Authorization legislation, but was particularly helpful when this Committee was working on the Oil Pollution Act.

We want to thank you for all you and wish you success in your new assignment.

I would like to introduce to the Members, Commander Woody Lee who will be the new House liaison officer. Commander Lee is a 1974 graduate of the Coast Guard Academy and has an advanced degree in Public Administration from American University.

He has served as both executive officer and Commanding Officer of the Coast Guard Cutter *Bear* out of Portsmouth, Virginia. He has also served here in Washington at Coast Guard headquarters.

One assignment here included three years at the White House as an Aide to both President Reagan and President Bush.

With his outstanding experience and credentials, I am sure that Commander Lee will serve the needs of the Coast Guard and the Congress well.

We look forward to working with you and hope that your assignment here will be memorable and one of accomplishment.

In addition, I would like to recognize a new member of the Subcommittee staff. The Subcommittee has been fortunate to be able to utilize the Coast Guard Fellows Program to borrow outstanding members of the Coast Guard to work with the Subcommittee for a three-year assignment.

We most recently benefited from Jim Adams serving three years with the Subcommittee. Lieutenant Matt Szigety will be serving as a Coast Guard Fellow on loan to the Subcommittee.

Matt was most recently the Commanding Officer of the Cutter Point Heyer out of Morro Bay, California. Matt is originally from New York and has also served on the Cutter Harriet Lane out of Portsmouth, Virginia.

Matt will be located in the Subcommittee offices and will be available to assist the Members in any way with questions or issues involving the Coast Guard.

Welcome aboard Matt and we look forward to working with you.

I would be remiss without recognizing the fact that we have two former Subcommittee staffers in the room today, one on official duties and one here just because she loved Jim Underwood so much she came back to say good-bye.

Sue Stilley is here, who served the Committee so long and Mr. Cornel also.

It is good to see you both again.

I want to ask if any of the Members have opening statements.  
Mr. Coble?

**STATEMENT OF HON. HOWARD COBLE, A U.S. REPRESENTATIVE  
FROM NORTH CAROLINA**

Mr. COBLE. Thank you, Mr. Chairman.

Mr. Chairman, I would like to ask unanimous consent to introduce the statement from the gentleman from Texas, Congressman Fields, into the record.

Mr. TAUZIN. Without objection. We will make that generally for anyone with written statements.

[The statement of Mr. Fields follows:]

**STATEMENT OF HON. JACK FIELDS, A U.S. REPRESENTATIVE FROM TEXAS**

Mr. Chairman, I compliment you for scheduling this important hearing to investigate the environmental threats of abandoned barges and to examine potential solutions to this serious problem.

While I was unable to attend the first hearing on this issue in New Orleans, I believe we must create an environment whereby individuals are strongly discouraged from abandoning their vessels in our nation's waterways.

According to the General Accounting Office, some thirteen hundred vessels have already been abandoned, many of them in the Gulf of Mexico, and they pose a serious threat to our coastal environment.

While these abandoned vessels are in themselves an environmental danger, regrettably this situation is compounded by the fact that they have become convenient depositories for unscrupulous individuals to dump hazardous or toxic materials into our waterways.

This practice must be stopped and I am frankly amazed that there isn't a Federal law prohibiting an owner from dumping or abandoning their unwanted vessels.

Mr. Chairman, I have carefully reviewed your draft proposal, the Abandoned Barge Act of 1992, and feel that it goes a long way toward solving this problem.

I am particularly impressed that your legislation includes provisions making it illegal to abandon a barge, establishing penalties for those who abandon barges, and creating an identification system to trace the owners of those who abandon such a vessel.

While some may argue that this draft bill does not go far enough, it will eliminate major gaps in existing Federal law and will send a powerful message to those contemplating abandoning their barges in the future.

Finally, I want to share with the Subcommittee an incident involving a serious barge accident in the Houston Ship Channel. As my colleagues may recall, in 1990 the Texas coast was the victim of two major oil spills. The second of those spills was caused by an accident involving a foreign tanker and an APEX oil barge.

As the result of this mishap, the barge sank in the Houston Ship Channel and there was tremendous confusion as to how to remove this vessel.

While the vessel did pose an environmental risk, it also caused a commercial disaster because ship traffic was severely curtailed in the Houston Ship Channel for nearly two weeks. The Port of Houston, ship operators, stevedores and commercial fishermen lost nearly \$2 million a day because of this accident.

While I am not being critical of the Coast Guard or the Corps of Engineers for their timid response in this case, there has to be a better way of dealing with sunken barges which can virtually shut down a port system and adversely affect the lives of hundreds of Americans.

Mr. Chairman, I look forward to hearing from our distinguished witnesses and I am particularly pleased to see that Mr. Cornel Martin will testify on behalf of the American Waterways Operators Association. Cornel was formerly a member of the Chairman's staff and it is a pleasure having him with us today.

Mr. Chairman, again, I compliment you for holding this hearing and for your leadership in crafting a proposal to help eliminate the problem of abandoned barges.

Thank you, Mr. Chairman.

Mr. COBLE. In order to make this bipartisan I, too, would like to throw a bouquet or two to Commander Underwood. I am a former Coast Guard man.

I come from a State that is rich in Coast Guard heritage. Anybody who serves along the Outer Banks often times are referred to affectionately and sometimes not so affectionately as "sand peeps."

Commander Underwood has been ashore so long he may qualify for sand peep status, but I think he will qualify for an afloat billet.

Mr. TAUZIN. If the gentleman will yield, I have seen him afloat rather well on land.

Mr. COBLE. So I have been told.

We wish his able successor good luck as well. I dislike confessing ignorance, but I must confess that I, too, did not know that one could willy-nilly abandon a barge without suffering legal consequences.

I think this needs to be tightened up. Obviously, what you propose to do I think will at least add additional muscle to the enforcement.

Perhaps our friends from the Coast Guard will address this, I would like to also maybe seek out alternative environmentally beneficial uses for some of these abandoned barges if that is possible to be done.

I would like to hear from you on that.

It is good to have you all with us today.

Mr. Chairman, I thank you for having staged this hearing.

Mr. TAUZIN. I thank the gentleman for his statement.

Are there any other opening statements?

#### STATEMENT OF HON. OWEN B. PICKETT, A U.S. REPRESENTATIVE FROM VIRGINIA

Mr. PICKETT. Mr. Chairman, I simply would like to associate myself with the favorable portion of the remarks made concerning the Coast Guard and the Coast Guard members here.

I also want to commend the Chairman for holding this hearing.

I notice in some of the testimony the words vessels and barges that seem to be used interchangeably. I think there is quite a difference between those terms as applied to what the Chairman is setting out to do here. I would urge the Chairman to consider a broad application of his statute.

I can also tell the Chairman that there is some very, very unique situations that I would like to discuss that I think need to be handled in the legislation in a unique way.

I appreciate this opportunity. I commend the Chairman for the work he has undertaken here.

Mr. TAUZIN. I thank the gentleman very much. I yield now to the Ranking Minority Member, Mr. Fields for a statement.

#### STATEMENT OF HON. JACK FIELDS, A U.S. REPRESENTATIVE FROM TEXAS

Mr. FIELDS. Thank you, Mr. Chairman.

I apologize for running a few minutes late. This is an extremely important hearing.

It is my understanding that there are several hundred abandoned barges in the Gulf Coast region. Not only are they abandoned, but some barges have become depositories for toxic and hazardous material.

It is a little beyond me why this subject has not been treated in the past. But I think your legislation has great merit.

I am glad we are moving forward in this particular direction. I pledge from this side of the aisle to work with you.

Mr. TAUZIN. I thank the gentleman very much.

Along with the gentleman from Virginia, Mr. Pickett, you can be sure we will work with you to be sure the legislation is refined and it is done in the best way we can do it.

Mr. Laughlin?

#### STATEMENT OF HON. GREG LAUGHLIN, A U.S. REPRESENTATIVE FROM TEXAS

Mr. LAUGHLIN. I want to wish Commander Underwood the very best and commend you for calling these hearings.

I rarely do that for a Chairman because you are supposed to hold these hearings, but as we found out in the hearing in New Orleans you scheduled last year, there is a real need here from an environment and safety viewpoint.

I look forward to getting this legislation through the Committee.

Mr. TAUZIN. I thank the gentleman.

I thank you again for chairing the hearing in New Orleans in my absence. I am not often absent from New Orleans but I was that day and the gentlemen did an excellent job.

Our witness list includes Mr. John Anderson, Associate Director for Transportation Issues, Resources, Community and Economic Development Division, United States General Accounting Office; Captain Robert C. North, Deputy Chief, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard; and Cornel Martin, Vice President, Southern Region, American Waterways Operators.

First, welcome Commander Anderson and all. Your printed statements are in the record by general agreement.

We appreciate a summary of your statement so we can get to Q and A.

STATEMENTS OF JOHN ANDERSON, ASSOCIATE DIRECTOR FOR TRANSPORTATION ISSUES, RESOURCES, COMMUNITY AND ECONOMIC DEVELOPMENT DIVISION, UNITED STATES GENERAL ACCOUNTING OFFICE; CAPTAIN ROBERT C. NORTH, DEPUTY CHIEF, OFFICE OF MARINE SAFETY, SECURITY AND ENVIRONMENTAL PROTECTION, UNITED STATES COAST GUARD; CORNEL MARTIN, VICE PRESIDENT, SOUTHERN REGION, AMERICAN WATERWAYS OPERATORS; COMMANDER WILLIAM CHUBB, ASSISTANT CHIEF, MARINE ENVIRONMENTAL PROTECTION DIVISION; AND WILLIAM S. JUSTICE, SENIOR EVALUATOR, U.S. GENERAL ACCOUNTING OFFICE

#### STATEMENT OF JOHN ANDERSON

Mr. JOHN ANDERSON. Thank you very much.

With me today is Bill Justice, Evaluator-in-Charge for the particular review we have done and are still in the process of doing.

I appreciate the opportunity to testify on our work related to the problem of vessels abandoned in the Nation's waterways. In summary, our preliminary information shows that almost 1,300 vessels lie abandoned in our Nation's waterways, and as the map to my left shows, most are located along the East and Gulf Coast and the eastern inland waterways.

Since 1988, abandoned vessels have caused 82 incidents of water pollution nationwide, threatening marine animal and plant life. In 14 other incidents, the Coast Guard intervened to prevent a spill. These incidents cost \$4.4 million to clean up. Fifteen involved hazardous materials that had been illegally dumped.

Currently, Federal laws do not prohibit owners from abandoning vessels and do not ensure that vessel owners can be identified. Without such laws, it is impossible to discourage future abandonments and the Federal Government will continue to pay clean up costs.

We asked each Coast Guard field office to identify abandoned vessels within their jurisdiction. They identified about 1,300 abandoned vessels. However, the total number is likely even greater since the Coast Guard did not search all waterways such as those in remote areas. Thirty-eight of 45 field offices reported at least one abandoned vessel and offices in Florida, Louisiana and Pennsylvania each reported over 100 abandonments. Almost 600 of the abandonments are barges and another 300 are other commercial vessels like fishing boats. The remainder are recreational vessels.

Abandoned vessels can cause serious environmental problems. Usually what happens is fuel and bilge oil, left on board when the vessels are abandoned, leak into the water damaging marine and plant and animal life.

In 1989, when a caller reported oil in Virginia's Elizabeth River, it was found that 2,500 gallons leaked from the Parris Island fishing vessel. Two parties disputed ownership of the vessel and neither took responsibility. The Coast Guard hired a contractor to clean up the spill and at a cost of \$22,000 to the Federal Government. The Coast Guard is trying to recover the costs from the owners.

In fifteen of the 96 incidents from 1988 to September of 1991, abandoned vessels have been used as disposal sites for hazardous materials such as herbicides banned from use by EPA. Near the coast of New Orleans, two abandoned barges were found, one of which is shown at my left which leaked 1,000 gallons of illegally dumped waste petroleum products. Because one owner was deceased and the other bankrupt, the Coast Guard contracted for the disposal of 210,000 gallons of waste materials at a cost of \$835,000 to the government.

To prevent further dumping, all openings on the barges were secured with chains and locks. However, in August of 1991, we visited this site with the Coast Guard and found the chains and locks had been broken, illegal dumping had resumed, and another 300 gallons of hazardous material leaked into the water. It damaged oyster beds, crustaceans, plants and marine animals. The Coast Guard removed 571,000 gallons of hazardous materials from the

barges. Clean-up work, we understand, has recently been completed at the additional cost of \$1.7 million.

The Coast Guard estimates that it has spent about \$4.4 million from January 1, 1988 to September 30, 1991, to clean up pollutants from abandoned vessels. Future costs may be much higher, particularly if the Coast Guard identifies a significant number of abandonments that contain large amounts of pollutants.

Since before 1990, Federal officials had only limited authority to remove abandoned vessels causing pollution. With the Oil Pollution Act of 1990, the Coast Guard has broader discretionary power to remove the vessels if they determine there is a substantial threat of a discharge. However, currently no Federal law prohibits owners from abandoning vessels in the waterways. No economic penalties exist and owners cannot be fined unless the vessel obstructs the channel. Because the cost of scrapping the vessels may be greater than the value, they are often abandoned.

While it is not illegal to abandon a vessel, Federal law holds owners responsible for pollution from the vessel. However, the owners of abandoned vessels are often not held accountable for spill cleanup costs because they are either not identified or bankrupt. In these cases, the cost of cleaning up and removing the vessel will be paid from the Oil Pollution Liability Trust Fund or the Hazardous Substance Superfund.

Another problem is that barges that use inland waterways have been exempt from documentation requirements which can be used to identify owners. While some owners have documented their barges, others have not. About 27,000 barges are currently documented but the Coast Guard estimates that 14,000 barges are not. If any are abandoned, the Coast Guard may not be able to identify the owners and hold them responsible. About 600 vessels, I remind you, identified by the Coast Guard, are barges.

In conclusion, Mr. Chairman, abandoned vessels currently located throughout the Nation's waterways may require significant amounts of Federal funds to clean up and remove. To minimize both further environmental damage and additional expenditure of Federal funds, something needs to be done to deter future abandonments and identify owners of all abandoned vessels including barges.

We plan to issue our final report on this subject later this year. This concludes my prepared remarks.

Mr. TAUZIN. Thank you.

[The statement of Mr. Anderson can be found at end of hearing.]

Mr. TAUZIN. We will now welcome Captain Robert North, Deputy Chief, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard.

#### STATEMENT OF CAPTAIN ROBERT C. NORTH

Captain NORTH. Good afternoon, Mr. Chairman.

I have with me Commander Chubb, Deputy Chief of the Environmental Protection Division.

We thank you for the opportunity to address you today on the status of abandoned vessels. The statement we submitted is an early draft and is probably somewhat dated in content.

I plan to give you an updated summary of that statement and basically focus on sections of the proposed legislation as we see the need, the help it will provide and the impact it might have on the problem. A major concern addressed by the proposed legislation is the pollution from abandoned barges over 300 gross tons.

The problem is real. The abandonment prohibition should help deter the source of the problem and provide the opportunity to have a broader authority to remove vessels and mitigate the problem where it exists today.

About 15 percent of the 96 incidents that were cited in the statement by GAO, were attributable to barges. Some of those barges, including the ones cited in the New Orleans situation, were under 300 gross tons.

In looking at the legislation, we would propose that a portion of the law or the proposed legislation be looked at for application to a wider range of vessels other than barges. Our staffs could perhaps take a look at that together and maybe define a broader application that might be more appropriate.

The proposed legislation allows the Secretary to remove abandoned barges of over 300 gross tons even if no immediate pollution threat exists. We believe the funding mechanisms under the Clean Water Act and CERCLA are sufficient to handle such threats.

If the on-scene coordinator determines that an abandoned vessel poses a substantial threat—in other words, if it has oil or some other materials inside of it—the Commandant has the authority to remove the vessel in coastal areas; the Administrator of EPA has that authority in inland areas.

The National Contingency Plan defines coastal and inland areas, giving the Coast Guard jurisdiction in coastal and EPA in inland areas. The boundaries are set by EPA/CG agreement and defined in detail in local contingency plans. The authority would help us remove the vessels which we consider only a potential threat.

I don't think any of us want a system requiring the removal of eye sores which are not a potential threat. We would like our pre-designated on-scene coordinators to have the authority to declare that a vessel which contains no oil or hazardous substances, but poses a significant potential threat, to be subject to removal at the recommendation of the Secretary, based upon that environmental threat.

The nature of the abandoned vessels is such that it may be difficult or impossible to recover costs from the owner, and the scrap value, as previously pointed out, is likely to cover only a small portion of removal costs if no owner or responsible party is indicated. Other than to recover scrap value, the proposed legislation does not appear to provide a funding mechanism for removal of vessels with this potential threat or that contain no oil or hazardous chemicals. We recommend a reference to CERCLA or to the Clean Water Act to cover the cost of removal if the responsible party could not be determined.

Our ability to recover expenses in the future will depend on the enhanced system of linking the vessels with owners through either State numbering or perhaps Coast Guard documentation.

The provisions indemnifying the Coast Guard are valuable. From an enforcement deterrent point of view, we think it is helpful to

provide for a civil penalty in the legislation as well as the criminal penalty.

In summary, I welcome the effort to give us a better tool to deal with this issue. It is most important to me that the provisions of the law be consistent with the national contingency plan as it is today and the oil-spill coordinator from the Commandant or the Secretary of Transportation or EPA as the case may be.

I look forward to working with your staff, as does my staff, to frame a document to take care of this.

Mr. TAUZIN. Thank you.

[The statement of Captain North can be found at end of hearing.]

Mr. TAUZIN. Finally, we have Mr. Martin, Vice President, Southern Region, American Waterways Operators.

#### STATEMENT OF CORNEL MARTIN

Mr. MARTIN. Since I left the Subcommittee staff three years ago, this is my second opportunity to sit as a witness, but it feels a little strange on this side of the microphone.

Mr. Tauzin, let me congratulate you on the fine job that you have done as Chairman of the Subcommittee, your responsiveness to the needs of the Coast Guard and your ability to balance the needs of the industry to what is in the public's best interest is appreciated by our members in AWO and the general public.

Hopefully, this hearing will help us to strike a reasonable balance where this issue is concerned.

Turning to the subject at hand, I must first express AWO's concern that this issue is now being described as "the problems associated with barges which are abandoned on our Nation's navigable waterways." It is clear from GAO data that barges compose less than half of the inventory identified so far.

We believe that it is important to keep this fact in mind because ownership and disposition of the vessels in our barge fleets are already subject to extensive Coast Guard and Corps of Engineers mandatory reporting and registration requirements.

Our members believe that the bulk of the inventory of abandoned barges developed during the extremely depressed waterborne economy of the 1980's, and was exacerbated by the proliferation of "fly by night" operators who entered the business primarily to take advantage of the then existing investment tax structure.

When a depressed market lessened demand for barges, these operators, without the benefits of the repealed tax credit, simply abandoned their equipment; they were not part of the core/traditional waterborne barge industry whose members operate responsibly and are in the business for the long haul.

This derelict inventory is not growing at some alarming or regular/annual rate. The solution to the problem should initially focus on removing this existing derelict inventory.

What specific changes in the law are necessary to prevent future buildups, is an issue which we believe will be more fully understood after the GAO has completed its work and their findings and recommendations have been analyzed and discussed.

As a common point of departure, however, it certainly appears environmentally prudent that vessel "abandonment" should not

generally remain a sanctioned form of disposal as it is today under current law.

Identifying the vessel owner for purposes of establishing financial responsibility is obviously important.

As I referenced earlier, the vessels in our industry are already subject to extensive annual reporting requirements covering ownership and vessel disposition.

Specifically, Corps of Engineers regulations issued pursuant to the Rivers and Harbors Act, as amended by the 1986 Water Resources Development Act, require annual documentation by vessel operators for waterborne transportation lines and vessels of American registry engaged in domestic or foreign commerce.

As part of this mandatory annual filing process, vessel operators are required and directed to, "strike through those vessels listed which are no longer operated by you and indicate disposition under 'Remarks,' for example, sold to—give name and address of purchaser: scrapped; abandoned; sunk; et cetera."

The only information not required is—abandoned—where?

In addition, no information is required on fishing vessels and recreational craft which are identified by the GAO as comprising over one half of the abandoned vessel fleet.

Lastly, and importantly, the law provides that failure to report can result in a fine of \$5,000 or imprisonment not exceeding two months and/or a civil penalty of up to \$2,500 for each vessel not reported—

The Coast Guard also requires and maintains extensive documentation and certification records for many of our vessels, which begins when the vessel is initially put in service and continues as part of the required renewal-inspection process until the vessel is taken out of service.

At that point, the Coast Guard removes the required inspection certificates and, in the case of a tank barge, requires the operator to obtain a certificate certifying that the vessel is "gas free."

Unlike the Corps' requirements, after a vessel is taken out of service, the Coast Guard does not seek to determine the final disposition of the vessel in question.

Given this existing paper trail, it appears to us that a legal and regulatory framework already exists to adequately track the ownership and whereabouts of the bulk of our industry's barge fleets.

Whether this system has indeed been adequately or fully utilized by the relevant agencies is certainly an area which we believe this Subcommittee should explore—particularly as it relates to the enforcement provisions to ensure that in the future vessels are indeed properly disposed of and accounted for.

Concerning the issue of establishing authority to remove these abandoned vessels, particularly where hazardous substances remain or have been disposed of in these vessels, the Coast Guard asserts that under the Oil Pollution Act and CERCLA, it already has authority to remove any product found in these vessels, remove or destroy the vessel/receptacle, and fund such an effort utilizing CERCLA funds.

It should also be noted here that in our home State of Louisiana, Senate Bill 1075 has been introduced to authorize the State Oil Spill Coordinator to "locate, identify, mark, and analyze the con-

tents of any abandoned or derelict vessels—(and) establish a priority for removal.”

The bill also includes language found in present law authorizing the Oil Spill Coordinator to spend up to \$1 million per year to remove such vessels if the owners cannot be located.

I spoke with Mr. Roland Guidry, Louisiana’s Oil Spill Coordinator last week, and he advised that he felt confident the bill would be signed into law. He also advised that the money for the first year or so would be spent mostly on identification and establishing a priority list.

I understand he is working closely with Coast Guard marine safety offices in New Orleans and Morgan City to coordinate that effort.

Turning to the legislation which has been developed to address this problem, we make the following observations:

One, as stated in my testimony, given that GAO data indicates that barges represent less than one half of the abandoned vessel inventory, we believe the bill should properly address the entire derelict inventory including fishing and recreational vessels, which beyond the “visual” pollution caused by their presence, also pose a similar threat of oil and other chemical leakage, spills, et cetera, as do barges albeit in potentially smaller quantities.

Two, while we appreciate the jurisdictional problems caused by specifically adding the Corps of Engineers to the bill’s coverage, given its important role in our industry regarding record keeping and operational considerations, any bill which attempts to address this issue should clearly reflect the Corps role and provide for full cooperation and coordination by the Coast Guard and the Corps.

Three, the bill has correctly recognized that barge fleets are routinely moored for periods of time in Federal, State, or privately-authorized areas and this operational necessity should not be hindered by any new regulations or paperwork requirements.

Four, we note that draft subsection (b) places the burden of funding the removal of an abandoned barge on the barge and its cargo. Given the general derelict condition of the vessels in the current abandoned vessel inventory, this would appear to be at best a speculative source of future funding, potentially fraught with administrative costs related to sale.

We further note that the draft bill includes no other funding authorization for removal expenses not offset by the sale of the barge and cargo, which in many cases would not be sufficient to cover the costs of removal/disposal.

Five, in section 2, the bill recognizes the fact that most barges are already federally documented, and correctly avoids duplication by addressing numbering requirements only for otherwise undocumented barges. We do not have information on the impacts such a State documentation system might generate—for example, cost impacts, fees required, et cetera—and, therefore, cannot comment on this aspect of the legislation.

In closing, Mr. Chairman, we share your view that better practices and procedures be instituted regarding vessel disposal, which also provide the funding necessary to cover the costs associated with removal and cleanup of the inventory of abandoned vessels; obviously, to the maximum extent possible the owner of the vessel

should be found and, where applicable, made to pay for cleanup and removal costs.

In those situations where ownership cannot be established, or liability is not present for previously "legally" abandoned vessels, the Coast Guard, as referenced earlier, has indicated that CERCLA funds have already been used to address this problem.

The one thing this industry does not need, and which you, Mr. Chairman, fully appreciate, is another fee of any kind which further burdens an already beleaguered industry. Indeed, you, and other Members of the Subcommittee, have consistently expressed your concerns that the maritime industry is already operating under the strain of the cumulative impacts of the ever-expanding lists of fees we are required to pay.

Whatever course of action you choose to take to resolve this issue, please don't add another unnecessary cost here.

Mr. TAUZIN. Thank you, Mr. Martin.

Let me begin with a quick round.

Mr. Anderson, in the pictures you showed us, you showed us a fishing vessel that was one of the leaking vessels cited by you in the study.

What became of that fishing vessel once the spill had been cleared up.

Mr. JOHN ANDERSON. As I understand it, Mr. Chairman, it is still there.

Mr. TAUZIN. So that the leak and the material has been removed?

Mr. ANDERSON. Yes.

Mr. TAUZIN. But the vessel is still there. Do you have any information as to whether or not tugs and vessels have been used by midnight dumpers?

Mr. ANDERSON. I will let Mr. Justice answer that, Mr. Chairman.

Mr. JUSTICE. Mr. Chairman, of the 15 incidents we spoke of, 14 were barges, but there was a tugboat in Pittsburgh, Pennsylvania, which was used for illegal dumping.

Mr. TAUZIN. So the vast majority problem appears to be with barges?

Mr. JUSTICE. Yes.

Mr. TAUZIN. With regard to the fishing vessel, the leak, was the material put into the vessel or was the material an ordinary part of the vessel when it was abandoned?

Mr. ANDERSON. It was the ordinary oil, fuel oil that was in the vessel. That was 2,500 gallons that leaked out.

Mr. TAUZIN. Captain, where are barges currently allowed to moor? What is the status of the law there and are there any restrictions on where barges can be moored?

Captain NORTH. Generally, there is no restriction. There are numerous designated fleeting areas where you find large groups of barges mooring. You will find them pushed up on a bank for one reason or another for a short period of time.

There could be reasons like cable crossings or revetments which restrict them from mooring in a particular location, but by and large, in the Western River System and the Mississippi toward that area, you might find a barge pushed up in most any location.

Mr. TAUZIN. Does the lack of any restrictions inhibit or contribute in any way to the problem and inhibit its solution?

Captain NORTH. I think the legislation addresses it appropriately in the sense that there are many legitimate reasons why one would want to push up on a bank and moor a barge for a short time.

It would not be advisable to create a lot of restrictions on mooring. It would be better to deal with the problem as you have dealt with it.

Mr. TAUZIN. In a letter we received from the commandant on April 7, the commandant indicated that the leaking barges in Empire, Louisiana, had been cleaned up.

He added that destruction of the barges is nearing completion. We heard a case of a barge that had been locked and chained shut. Later, midnight dumpers broke the locks and used the barge to dump chemicals again.

After this second occurrence, we are told the barges are destroyed. What is the current practice when you find a barge that has been used by midnight dumpers?

Captain NORTH. Generally, to remove the product. In the case you are speaking of, when locks and chains did not do the job, we felt removal and destruction of the barge was right.

Mr. TAUZIN. These are the same barges?

Captain NORTH. Yes.

Mr. TAUZIN. In addition, five additional barges are identified as imminent threats to the environment. Were they destroyed?

Captain NORTH. Initially they were cleaned out. We have to wait and see if they pose a long-term potential for continued dumping.

Mr. TAUZIN. One of the problems that we can envision is who will police abandoned barges? Who will watch them at midnight? It is simple to break a chain or lock.

If we are not going to have a police force watching them, isn't the solution remote?

Captain NORTH. It would be. There would not be anybody out there to make a frequent check of the barge. Those we found to be commonly used, as in this case, we found that ultimately removal is the solution.

Mr. TAUZIN. Mr. Martin, is 300 tons the appropriate cutoff point to achieve adequate prevention?

Mr. MARTIN. Mr. Chairman, there is certainly a significant number of vessels falling under that category. You can have vessels as large as 30 feet by 6 feet in depth, a standard depth barge operating in the inland industry that would fall well below the 300-ton mark.

So I am not sure that that is an adequate number to get the majority of the vessels that you are trying to reach, Mr. Chairman.

Mr. TAUZIN. Mr. Anderson?

Mr. ANDERSON. We did not gather any information on the size of the barges out there that have been identified, the 1,300. So I don't know. I cannot address that.

Mr. TAUZIN. Cornel, can you relate a relative number of barges? Are there a great many barges below 300 tons that could pose a threat if they were abandoned?

Mr. MARTIN. A quick check of the Corps' data would reveal that number accurately. Just scanning the Corps' data applying to the

vessels it would seem a majority of the undocumented vessels, that don't hold per se Coast Guard document numbers, but are reported to the Corps are below that 300 number.

I would say it is a lot less than the 14,000 estimated by the Coast Guard, but there is no way to get a good number until we have better information from the Corps.

Mr. TAUZIN. You indicated opposition to using the liability fund for removal costs, but in the case of orphan barges, we don't know who they belong to. We can't find the owner. Who covers the cost if we don't look toward the loss or liability fund to do it?

Mr. MARTIN. I don't see it as a problem to clean up potential costs and oil spills. I think the addressing of indemnification of contractors who would remove the equipment in cases where the problem was not related to the cleanup.

In other words, I think in one of the initial drafts of the legislation the Oil Pollution Liability Fund would be used to indemnify contractors who would be going in to clean up.

Mr. TAUZIN. Isn't that necessary if you are to get contractors to go in and undertake the contract. My understanding of the Act is that a contractor who dares to do that is putting every dollar in his business at risk.

Mr. MARTIN. In the legislation, the indemnified—against any problem or not. It was the loose language.

Mr. TAUZIN. You have no problem with the oil pollution fund being used for orphan barges?

Mr. MARTIN. No, sir. We are using that.

Mr. TAUZIN. Thank you.

I yield to the Ranking Minority Member for any questions he might have.

Mr. FIELDS. Captain North, do you think it is a proper use of the Oil Spill Liability Trust Fund to clean up and remove abandoned barges?

Captain NORTH. Certainly if oil in the barge is the problem. If we are talking about a barge that has no oil in it, but it is in a situation or location where we think it possesses a high potential for dumpers, we need some other resources to deal with it if we cannot locate the owner.

Mr. FIELDS. Can you give us information on what the cost per vessel has been for removal of these types of vessels? Can you peg a cost to that?

Captain NORTH. No, I can not. I think GAO mentioned a cost.

Mr. ANDERSON. We mentioned that the Empire, Louisiana, barges cost a total of \$1.7 million. I believe \$300,000 of that was the removal cost and that the balance, \$1.4 million was cleanup cost.

Mr. FIELDS. The environmental cleanup?

Mr. ANDERSON. Yes.

Mr. FIELDS. How many of those abandoned vessels were in Texas?

Mr. ANDERSON. Our numbers are a little misleading because they are organized by location of the Coast Guard field office, not the vessel's location.

I believe our numbers show 97. Texas ranked No. 4 out of the top 25.

Mr. TAUZIN. I know how much you hate to rank anything lower than No. 1.

Mr. FIELDS. In this case, we are glad. The Coast Guard investigated 96 incidents involving abandoned vessels.

Were you able to ascertain what the costs were of the investigation?

Captain NORTH. No. They don't keep that type of record, I don't believe, Mr. Fields.

Mr. FIELDS. Of these abandonments that have been studied and it may be difficult for you to answer, were these isolated, single event-type abandonments or is there some type of organized activities?

Mr. ANDERSON. I don't know the answer to that question. We did not get information to that effect, did we, Bill?

Mr. JUSTICE. No, sir.

From the ones we observed with the Coast Guard, it seems to be isolated. There doesn't seem to be any system or rhyme or reason to it.

Mr. FIELDS. Based on your study, to what extent are these types of people going to remove identification?

Mr. ANDERSON. I think that they might be highly likely to do it. That is one of the things that we think needs to be done. Whatever identification system is used, it should be some sort of system that makes it difficult to remove the identifying number, make it more indelible.

I believe under the legislation that is proposed, they propose using the State registration system. The State system, I believe, does not require as stringent a process to mark the vessels as the Coast Guard system does.

Mr. FIELDS. Were there attempts to remove it from the vessels?

Mr. JUSTICE. Yes, sir. Various Coast Guard officers related to us that pieces of the vessels had been cut out or obliterated to take the numbers off.

Mr. Anderson was saying the documentation system used by the Coast Guard requires those numbers to be put on the interior part of the hull using a system that cannot be obliterated.

Mr. LAUGHLIN. Will you yield?

Mr. FIELDS. Sure.

Mr. LAUGHLIN. Using the word "vessel," are you talking about the barge or the motorized towboat?

Mr. FIELDS. I intended to talk about barges because it seems that is where the problem is.

Mr. JUSTICE. When we say "vessel" we mean powered and unpowered. When we say barges we mean just barges.

Mr. FIELDS. If this legislation were enacted and implemented in your opinion, would this go a long way toward addressing this particular problem or should we go further?

Mr. ANDERSON. I believe it would go a long way. The one point I would make is that I do believe we identified 1,300 abandoned vessels and only 600 were barges. Although that is not a small number, I think I would share the view with Mr. Martin that maybe you would want to consider expanding the applicability of the Act to more than barges by including commercial vessels and considering recreational vessels as well.

Mr. FIELDS. Mr. Martin, I want you to know that certainly on both sides of the aisle, you are well respected and what you say has great meaning and weight for the Subcommittee.

I want to make sure I understand what you said a moment ago. If we had to vote on this legislation today, would your association, AWO, recommend a yes or no on that particular vote?

I ask that, Mr. Martin, because in my opinion, having served on this Committee for quite a few years, the vast majority of the operators and owners are good people.

We are not talking about the majority of your association contributing to this type of problem, in my opinion, but as an association, what would you recommend on this legislation?

Mr. MARTIN. Mr. Fields, I think our recommendations were somewhat minor to the gist of the legislation. We would definitely support the bill.

Mr. FIELDS. Would you very quickly summarize what you would change if you could modify something?

Mr. MARTIN. We feel, as expressed by GAO, we feel it should include more than just barges, the scope of the legislation should include more than just barges possibly expanding below the 300-ton limit.

The two barges identified here were substantially under the 300-ton limit. That is probably one of the biggest concerns we have with the legislation. That is the only one that comes right off.

I would have to refer back to my notes.

Mr. TAUZIN. Would the gentleman yield?

Mr. FIELDS. Certainly.

Mr. TAUZIN. We had a concern about indemnification. That section was removed.

Mr. MARTIN. Yes. That was another big concern of ours that no longer exists.

Mr. FIELDS. Thank you, Mr. Chairman.

Mr. TAUZIN. Mr. Pickett?

Mr. PICKETT. Thank you, Mr. Chairman.

These vessels that we are talking about that have been abandoned, were they required to be registered under State law as well as Federal registration? Do the States require the operator to register those under some State law?

Mr. JUSTICE. Sir, unpowered vessels, barges, essentially, are exempt from registration under the Coast Guard documentation system as well as the State system. So they are exempt from both systems.

Mr. PICKETT. Is there any recommendation along the line of what provisions should be included in this legislation to insure that these vessels can be identified, some sort of registration requirement?

Mr. ANDERSON. We believe there should be some registration requirement. The legislation calls for using the State system. We are not prepared at this time to say whether the State system or the Coast Guard system would be the best one to use. Also, I believe the Corps of Engineers keeps a registry of vessels that maybe could be modified and used.

Mr. PICKETT. Captain North, has any estimate been made of what the costs could be to the Coast Guard if you had to go forward

and undertake to remove those barges that had been identified as potential sources of dumping and that pose other types of risks?

Captain NORTH. No, sir, not a full accounting or estimate, no.

Mr. PICKETT. So you don't have an estimate of what we might be talking about in total dollars?

Captain NORTH. No, sir.

Mr. PICKETT. Is there any likely source of funding for this activity that has not been discussed or identified at this point?

Captain NORTH. None that I am aware of.

Mr. PICKETT. If the Coast Guard were to be given this responsibility, you would want additional resources to carry this out?

Captain NORTH. We would have to look at the scope of what we were going to do. It would depend on whether we were going to do a cleaning operation or a full removal of all these vessels.

Certainly of the 1,300 vessels, I suppose some may not be a great potential in terms of an imminent threat and perhaps not even a potential threat in the long-term. We would have to go back and assess that.

So we don't know the scope of the problem at this point to assess the cost of removal.

Mr. PICKETT. Is it fair and appropriate to talk about assigning this responsibility to the Coast Guard or is there some other agency or entity that could more appropriately handle this clean-up?

Captain NORTH. It would be appropriate to approach it from a pollution perspective and look at the National Contingency Plan, which lays out responsibility in inland areas for the administrator of EPA to deal with removal and for the Coast Guard in coastal areas.

We are talking about a lot of traffic in the Mississippi River or other rivers. There are cases there where the Coast Guard has responsibility and other areas where EPA has the responsibility.

We think it would be more appropriate to address the issue through the National Contingency Plan scheme since it is already there. We would be looking at the same concept and responsibility that we have today for those vessels that do have oil or hazardous substances in them.

The authority or responsibility to remove would be vested in that agency responsible for the type of area where the barge or vessel was located.

Mr. PICKETT. This division of responsibility between the EPA and the Coast Guard with respect to these barges, is that a clearly defined division or is it sort of murky and overlapping?

Captain NORTH. It is clearly defined in local and national contingency plans. There is no question as to who has authority in what area. I think perhaps we probably both worked together in those issues to make the assessment. We would look at who might be the lead agency given the geographic area.

From a funding perspective, if the owner were known, we could go to him if it were provided by the proposed legislation. If it were unknown, we would look at trying to get funding from another source, such as the Clean Water Act or CERCLA, depending on the circumstances.

Mr. PICKETT. As I understand your remarks, you are comfortable with this division of responsibility between the coastal and inland areas, you think that the division between the Coast Guard and the EPA should remain the way it is?

Captain NORTH. Yes. We worked with that ever since the NCP was first written many years ago. We have worked with that in those areas where we needed to have a joint operation. I think we could do it here as well.

Mr. PICKETT. In an analysis of the vessels identified was a determination made as to how many were coastal and how many were in the inland areas, and how many would the Coast Guard and EPA be responsible for?

Mr. JUSTICE. All we asked them to do was make an estimate within their jurisdiction. Essentially they should have covered the whole country. Practically speaking, MSO's looked at their response zone, as Captain North was speaking about.

There may be more out there. In fact, preliminary results from the Corps of Engineers, which we are also working with on this subject, came to almost 4,000 vessels, including 1,200 barges. We have not verified that yet.

The point I am trying to make is the Corps may have tried to give us a more comprehensive count than we got from the Coast Guard.

Mr. PICKETT. I see.

For the most part, the 1,300 are within the Coast Guard's jurisdiction and we are not counting those in the EPA jurisdictional area.

Mr. JUSTICE. Most likely that is what we received back from the Coast Guard; yes.

Mr. PICKETT. Thank you.

Thank you, Mr. Chairman.

Mr. LAUGHLIN (presiding.) The gentleman from North Carolina is now recognized.

Mr. COBLE. Thank you, sir.

I appreciate that, Mr. Chairman.

Mr. Anderson, I think the Chairman asked this question to you or Mr. Justice, but I did not hear the complete answer, so I will ask it: Do other abandoned vessels, including fishing and recreational vessels, create the same sort of environmental problems as do barges?

I think he asked that question, but I did not hear it completely.

Mr. ANDERSON. I believe they create problems. However, if you get barges that have large storage areas, then larger accidents can happen.

As we pointed out in the Parris Island example, a spill of 2,500 gallons resulted from that fishing vessel.

Mr. COBLE. Much has been said by the Chairman and the gentleman from Texas, without being specific, Captain North, regarding the source of the cleanup, of the paying of the cleanup costs.

Are there earmarked funds for this abandonment or do these funds come from general Coast Guard-appropriated moneys?

Captain NORTH. When we are talking about the act of the cleanup of a site where there is oil or hazardous materials, it comes

from the Oil Spill Liability Trust Fund or CERCLA fund. It does not come out of Coast Guard funds, if that is your question.

Mr. COBLE. Much has been said about environmental hazards. I don't think anybody mentioned navigational hazards. I am sure they are posed as well.

Is there any different standards applied in addressing one as opposed to the other?

Mr. JOHN ANDERSON. The Corps of Engineers has responsibility for removing any vessel that is blocking or is a hazard in a federally-maintained channel. So it is a different type of a standard.

There doesn't have to be a question about pollution or anything like that.

Mr. COBLE. I have two more questions.

Captain North, given the general absence of any sort of permanent identification number, do you all regard developing an aggressive trail as an exercise in futility, or do you try to remove it, or do you try to exhaust every opportunity to lay a glove on the other hand?

Captain NORTH. We would certainly make our best effort to find an owner. We would not just blow it off and go ahead and remove the vessels. We will make a strong effort to find a responsible party.

Mr. COBLE. Do you have pretty good luck to that end?

Captain NORTH. Not necessarily. In the case here, we were able to find a responsible party, but one was deceased and one was bankrupt, so it was to no avail.

My guess would be that we would have a difficult time, in many cases, trying to find a responsible party for these vessels.

Mr. COBLE. Finally, gentlemen and this could apply to either of the five of you, is there a favorable spin to this?

Can we find any sort of beneficial use?

You have heard about "Rigs to Reefs" approach; is that sort of thing at all feasible here?

Captain NORTH. I suppose if we got a vessel and cleaned it out and it was virtually safe from a pollution standpoint, we could offer to any entity who would be pleased to have it to use it for that purpose. I don't see any reason why we could not do that.

Mr. JUSTICE. To echo that, in Florida they have had good experience using abandoned vessels the State has confiscated.

Captain NORTH. It would take the burden off of us to dispose of the steel hull, so to speak.

Mr. COBLE. That is where I was coming from. That is why I was hoping to get a favorable response to that.

Captain NORTH. It would be beneficial if we could do that.

Mr. COBLE. Thank you gentlemen for being with us.

Thank you, Mr. Chairman.

Mr. LAUGHLIN. Thank you, Mr. Coble.

I agree with the statement that has been made that perhaps this act should be expanded to include fishing vessels, recreational vessels or any of the vessels that were abandoned.

If we were to do that, would that place any additional financial burden on the Coast Guard in enforcement beyond what we are already looking at?

Captain NORTH. Yes, it would in the sense that any time you do an operation of this sort, you are going to be expending resources to do it. Conceptually, going out and having to deal with 1,300 vessels would certainly burden us more than we are today.

It would depend upon, again, a survey of those vessels, the determination of which are an imminent threat and which must be dealt with right away, and the size of them. But yes, we would have to look at what this ultimately would cost us in terms of people and dollars.

Mr. LAUGHLIN. Does it make sense to include all the vessels if you are talking about cleaning up the environment because, if is barges or tow boats that push or pull the barges or recreational boats, if they are becoming storage bins for toxic waste and they are leaking, they still present varying degrees of pollution or damage to the environment.

Captain NORTH. If they are leaking, certainly, or if they are a potential dumping site, it would be best to remove them or do something with them.

Mr. LAUGHLIN. What would be your argument with us to not expand this act to include recreational or fishing vessels?

Captain NORTH. From our perspective, we feel it should be expanded to include the commercial side. Recreational vessels add another 300 or 350 vessels from the current survey.

It adds up to more workload. Certainly if they are an environmental problem from an oil or hazardous materials perspective, we need to deal with it.

Mr. LAUGHLIN. You are not here trying to persuade us not to expand the act?

Captain NORTH. That is right.

Mr. LAUGHLIN. I interjected that I was not sure whether we were talking about barges or tow vessels when we were talking about vessels. The reason I wanted to be clear, it has always seemed to me that the motorized tug is more identifiable and than some of the barges; is that an accurate perception?

Mr. JOHN ANDERSON. Yes.

Mr. LAUGHLIN. If that is true, what do you recommend is the best method for marketing or causing a permanent identification of the barge? I know you probably have answered that, but I was not clear on where we were going.

Mr. JOHN ANDERSON. I cannot say specifically what the method would be, but the method the Coast Guard uses for vessels that it requires to be documented, is a more permanent marking if there is such a thing. Just painting the hull is not going to do it because it is too easy for the people doing the abandonments to remove the marking.

Mr. LAUGHLIN. Captain North, is there any time frame that a barge must undergo, some Coast Guard inspection?

Captain NORTH. If it is certified to carry both flammable and hazardous liquids, it is inspected every two years. Barges that carry coal, wheat or steel on the Western Rivers or inland waterways are not inspected at all.

Mr. LAUGHLIN. They don't pollute quite as much as the ones carrying oil?

Captain NORTH. Only if you have a situation where they are abandoned and someone decides to use them as a repository for waste products.

Mr. LAUGHLIN. If this Committee were to decide that it wanted all the barges marked with a method of permanent identification, one way we could do that would be to set it up two years from the date to allow the routine working of that barge through the inspections processes, would cause less onerous burden on the owner of the barge in putting their identification of the barge, wouldn't it?

Captain NORTH. Perhaps, I would say that barges subject to inspection, even if they are not documented, do have a number that we use as a control number in essence. It is not an official number, in which case it has to be marked like an official number, but for the purposes of certification, we apply a Coast Guard number to it.

If you are talking about undocumented tank barges, there is an undocumented number that would apply to the vessel.

Mr. LAUGHLIN. But that doesn't mean I could go out and look at the barge and identify owners, is that right?

Captain NORTH. That is correct, yes.

Mr. LAUGHLIN. In this process we have to find a way to transfer a fixed identification on the barge in order to track down the owner at some point?

Captain NORTH. That would be helpful, yes, sir.

Mr. JUSTICE. Of the 27,000 barges currently estimated to be on our waterways, only about 4,000 are currently tank barges that Captain North is talking about. It is a very small percentage.

Mr. LAUGHLIN. They are unidentified and unmarked?

Mr. JUSTICE. No, the tank barges have to go through the periodic inspections.

Mr. LAUGHLIN. Along the lines of punitive action, ~~whether~~ they fail to get them marked with an identification or whether they abandon them and they become toxic dump sites, currently the legislative process is a fine of \$500. I would like for each one of you to respond.

Do you think that that is adequate or do you think that it ought to be a civil penalty that is much greater but easier to implement since it would not be a criminal fine? Can you render an opinion on that?

Mr. JOHN ANDERSON. Yes. Our position, I believe, would be that it should be something that could be done administratively that would not have to necessarily go through the Department of Justice. The \$500 a day seems as good a number as any right now.

Captain NORTH. The Coast Guard would agree with that. We would certainly be happy to see a higher penalty.

Mr. MARTIN. Mr. Chairman, I would reiterate from my statement that the barge industry is already subject to at least reporting the disposition of the vessel annually to the Corps of Engineers who is absent, unfortunately, from this hearing. But failure to do so would subject that company to a fine of \$500 and up to \$2,500 for each vessel each day.

I contend that if the barge industry is subject to those penalties and an additional \$500 would not make that much difference.

Mr. LAUGHLIN. I am told it is \$500 a day. As a former prosecutor, it is easier to get the attention of the owner the swifter you take

the \$500 from their pocket and it is swifter if you go the administrative route rather than the criminal route.

I was not consulted, but I would have strapped a little more than \$500 a day. Someone violates by abandonment, it seems to me that either you think that we are going to extract some substantial money for abandonment.

Or you are softer than I am on law enforcement? I don't guess you want to judge on that point.

Are all of you in agreement that \$500 per day is adequate to get the attention of the owners that if they are caught and these barges abandoned to become dump sites for toxic waste, that we are going to get their attention?

Mr. JUSTICE. From what we have seen, these are long-term abandonments and \$500 seems quite low. However, when you start doing it per day, I mean 30 days, 60 days, whatever, it adds up rather quickly.

Mr. LAUGHLIN. Your point is well taken, but it also should be pointed out that the first time on the scene of one of these barges you probably have not identified the owner and either the Coast Guard or appropriate Federal investigative agency will spend money tracking down the last owner.

I think the point is that it is swifter done and cheaper done, if we have better identification on the barges.

Mr. JUSTICE. That is right.

Another point of concern, the Corps of Engineers penalties are \$500 to \$2,500 a day. It is adjustable. This may be a similar situation.

Mr. LAUGHLIN. At the field hearing of this Committee in New Orleans last year, the Coast Guard suggested that identifying the industry about the hazards associated with abandoned barges would be a cost-effective way to prevent abandonment.

Captain North, can you indicate whether any steps have been taken to educate the industries up to this point?

Captain NORTH. Not outside of the Eighth Coast Guard District, no, sir.

Mr. LAUGHLIN. What has been done there?

Captain NORTH. A program to find and identify the abandoned barges was made known to the industries down there. I expect in the process there was some education about the hazards of abandoning barges and the hazards to the Coast Guard and other agencies.

Mr. LAUGHLIN. Your statement indicates that the Coast Guard feels the existing authority that is posed to vessels and pollution risk. Why is it that vessels which contain hazardous materials are allowed to sit after clean-up operations have been completed, the point being they are still there to become a hazard once again.

Captain NORTH. The cost of removal without a responsible party, even though there is a fund to do that, places a burden on existing funds which we use for clean up actions as well. In the case of those barges that were a recurring problem, we did remove those.

Mr. LAUGHLIN. Does the Coast Guard feel it has authority to remove those abandoned vessels that do not present environmental risk?

Captain NORTH. Presently, if the barge or vessel does not have oil or hazardous material in it we have no authority to remove it.

Mr. LAUGHLIN. You have no authority to remove it even though it is abandoned but not leaking oil or hazardous material?

Captain NORTH. If it is abandoned but it is not a substantial threat to the environment, then we have no authority to remove it.

Mr. LAUGHLIN. What if it would be a threat to navigation.

Captain NORTH. Then the Corps of Engineers would have it under their authority.

Mr. LAUGHLIN. Have there been situations where you notified the Corps of Engineers to remove vessels?

Captain NORTH. In my experience, yes, there have been a number of occasions when we have gone to the Corps with a request for removal.

Mr. LAUGHLIN. They do it in a timely fashion?

Captain NORTH. Yes.

Mr. LAUGHLIN. There was a question the Chairman asked about whether there were authorizing mooring areas for barges. I understand that there were no specific authorized areas other than around cable crossings.

Captain NORTH. They are specific areas that are used for mooring large groups of barges called "barge fleeting areas."

Mr. LAUGHLIN. What action does the Coast Guard take when a barge is moved in what I would call an area where you have a cable crossing or one of the other factors you named earlier in your answer?

- Captain NORTH. If the barge were moved in an area where there was some reason not to have it there, such as a cable crossing or where the barge created a hazard, we would attempt to get the barge moved.

If the prohibition against mooring was one set up by another agency, we would perhaps go to them. There would be potentially any number of avenues to use to remove the vessel if they were aware that it was there.

Mr. LAUGHLIN. Would you go to the Corps of Engineers if it was just moored at a cable crossing and the Coast Guard make the decision it ought to be removed?

Captain NORTH. Probably not. We would go to the owner first if it was an active vessel.

If it was on a revetment or involved a Corps of Engineers device, we would probably go to the Corps if the vessel is not moved.

It would depend on the circumstances of what was being damaged by the barge or the potential for the barge to damage a cable crossing, or whatever.

Mr. LAUGHLIN. It seems to me that we have a lot of shifting of responsibility from one Federal agency to another. It may well work, I don't know, I have not been there.

So my question to the panel is, is it this system of the Coast Guard being in charge of some of the activity in the navigable waters dealing with barges and abandoned vessels working with them being responsible part of the time, and it going to the Corps of Engineers part of the time, or should we have one entity responsible?

Captain NORTH. I would say from my experience as Captain of the Port that our shared responsibilities of division of various aspects of waterway management with the Corps has worked very well over the years.

In most port areas, there is a group of agencies that have waterway management responsibility, including Federal, State and local agencies. We meet periodically and deal with those issues.

I have not run into a great deal of problem in managing our objectives.

Mr. LAUGHLIN. Sometimes that is a result of the personality of the people in command, so I certainly respect you answer, but I would like to ask Mr. Martin of the AWO to respond.

Mr. MARTIN. Mr. Chairman, it has been our experience that the system has worked quite well. The Corps is usually fairly quick to respond to concerns that there is a threat to navigation or a problem with a vessel that will impede navigation.

At times, we have had to call upon the Coast Guard to help us to define that, but we really haven't had problems as an industry. It is in our best interests to keep those navigable waters open and we have been quick to correspond when we have had problems.

Mr. ANDERSON. I am not aware of any problems in this area either.

Mr. LAUGHLIN. The last question, going back to the identification system, some have indicated the various States have their methods of identification of the vessels.

Do you have an opinion whether we ought to leave a vessel, barges and tow boats, identification system up to the States or should that be established at the Federal level where we have consistency in identification?

Mr. ANDERSON. I believe that there could be a good argument made for having it at the Federal level because it would be consistent. Something you might want to consider in the legislation is to leave it up to the Coast Guard to look into this and decide what might be the best way to do it.

Mr. MARTIN. We would be concerned as to the burden it might impose on the Coast Guard to have to take in that numbering system, especially if recreational and fishing vessels are included.

So yes, we would probably want to leave it to the Coast Guard to make the decision. We don't see a problem, I don't think, with a State numbering system.

Captain NORTH. From the Coast Guard perspective, I think we, first of all, wouldn't envision providing identification numbers to those vessels that already have one, such as recreational boats and power vessels. We would be addressing the barge problem that the legislation originally focused on. It might be best to evaluate the pros and cons of the States and Federal system, but our ultimate preference might be to lean toward the Federal numbering system to keep it uniform.

Mr. LAUGHLIN. It seems to me if we are going to look at the Oil Spill Trust Funds for cleanup of the barge problems, and if we are going to look to the trust funds for indemnification, then certainly the Coast Guard or the Federal agency involved ought to be prescribing the identification system to be utilized.

Whether the State issues the number or sequence of identifying markings, I think that we ought to have that factor considered.

Since the Chairman is not here, I would certainly request that you consult with your staff and give a recommendation to Chairman Tauzin at some appropriate date. I think that would go a long way to helping us address that problem.

It seems that I am the only rat on the ship at this time. They all abandoned me, I am sure for better reasons than listening to me asking questions.

So I have no further questions and I will ask if you have any other comments on the topics that we have discussed at this hearing?

Captain NORTH. I have none, sir.

Mr. MARTIN. I have no more comments.

Mr. ANDERSON. No, sir.

Mr. LAUGHLIN. Hearing no motions, I will conclude the hearing. Again, gentlemen, thank you very much for participating.

[Whereupon, at 3:30 p.m., the Subcommittee was adjourned, subject to the call of the Chair, and the following was submitted for the record:]

102D CONGRESS  
2D SESSION

# H. R. 5397

To amend title 46, United States Code, to prohibit abandonment of barges,  
and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 15, 1992

Mr. TAUZIN (for himself, Mr. JONES of North Carolina, and Mr. FIELDS) introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

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## A BILL

To amend title 46, United States Code, to prohibit  
abandonment of barges, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Abandoned Barge Act  
5 of 1992".

6 **SEC. 2. ABANDONMENT OF BARGES.**

7 (a) IN GENERAL.—Part B of subtitle II of title 46,  
8 United States Code, is amended by adding at the end the  
9 following new chapter:

1       **"CHAPTER 47—ABANDONMENT OF BARGES**

"Sec.

"4701. Definitions.

"4702. Abandonment of barge prohibited.

"4703. Penalty for unlawful abandonment of barge.

"4704. Removal of abandoned barges.

"4705. Liability of barge removal contractors.

2       **"§ 4701. Definitions**

3        "In this chapter—

4                "(1) 'abandon' means to moor, strand, wreck,  
5       sink, or leave a barge over one hundred gross tons  
6       unattended for longer than forty-five days.

7                "(2) 'barge removal contractor' means a person  
8       that enters into a contract with the United States to  
9       remove an abandoned barge under this chapter.

10               "(3) 'navigable waters of the United States'  
11       means waters of the United States, including the  
12       territorial sea.

13               "(4) 'removal' or 'remove' means relocation,  
14       sale, scrapping, or other method of disposal.

15       **"§ 4702. Abandonment of barge prohibited**

16                "(a) An owner or operator of a barge may not aban-  
17       don it on the navigable waters of the United States. A  
18       barge is deemed not to be abandoned if—

19                "(1) it is located at a Federally- or State-ap-  
20       proved mooring area;

21                "(2) it is on private property with the permis-  
22       sion of the owner of the property; or

1           “(3) the owner or operator notifies the Sec-  
2       retary of the barge’s location.

3       **“§ 4703. Penalty for unlawful abandonment of barge**

4       “Thirty days after the notification procedures under  
5       section 4704(a)(1) are completed, the Secretary may as-  
6       sess a civil penalty of not more than \$1,000 for each day  
7       of the violation against an owner or operator that violates  
8       section 4702. A vessel with respect to which a penalty is  
9       assessed under this chapter is liable in rem for the penalty.

10      **“§ 4704. Removal of abandoned barges**

11      “(a) AUTHORITY TO REMOVE.—

12           “(1) IN GENERAL.—The Secretary may remove  
13       a barge that is abandoned after complying with the  
14       following procedures:

15           “(A) If the identity of the owner or opera-  
16       tor can be determined, the Secretary shall no-  
17       tify the owner or operator by certified mail—

18           “(i) that if the barge is not removed  
19       it will be removed at the owners’ or opera-  
20       tors’ expense; and

21           “(ii) of the penalty under section  
22       4703.

23           “(B) If the identity of the owner or opera-  
24       tor cannot be determined, the Secretary shall  
25       publish an announcement in—

1                   “(i) a notice to mariners; and  
2                   “(ii) an official journal of the county  
3                   in which the barge is located  
4                   that if the barge is not removed it will be re-  
5                   moved at the owners’ or operators’ expense.

6                   “(2) UNITED STATES NOT LIABLE.—The Unit-  
7                   ed States, and any officer or employee of the United  
8                   States is not liable to an owner or operator for dam-  
9                   ages resulting from removal of an abandoned barge  
10                  under this chapter.

11                  “(b) LIABILITY OF OWNER AND OPERATOR.—The  
12                  owner or operator of an abandoned barge is liable, and  
13                  an abandoned barge is liable in rem, for all expenses that  
14                  the United States incurs in removing an abandoned barge  
15                  under this chapter.

16                  “(c) REMOVAL SERVICES.—

17                  “(1) SOLICITATION.—The Secretary may, after  
18                  providing notice under subsection (a)(1), solicit by  
19                  public advertisement sealed bids for the removal of  
20                  an abandoned barge.

21                  “(2) CONTRACT.—After solicitation under para-  
22                  graph (1) the Secretary may award a contract. The  
23                  contract—

1           “(A) may be subject to the condition that  
2           the barge and all property on the barge is the  
3           property of the barge removal contractor; and

4           “(B) must require the barge removal con-  
5           tractor to submit to the Secretary a plan for  
6           the removal.

7           “(3) COMMENCEMENT OF REMOVAL.—Removal  
8           of an abandoned barge may begin thirty days after  
9           the Secretary completes the procedures under sub-  
10          section (a)(1).

11   **“§ 4705. Liability of barge removal contractors**

12          “(a) LIABILITY.—

13           “(1) IN GENERAL.—A barge removal contractor  
14           and its subcontractor are not liable for damages that  
15           result from actions taken or omitted to be taken in  
16           the course of removing a barge under this chapter.

17           “(2) EXCEPTIONS.—Subparagraph (1) does not  
18           apply—

19           “(A) with respect to personal injury or  
20           wrongful death; or

21           “(B) if the contractor or subcontractor is  
22           grossly negligent or engages in willful mis-  
23           conduct.”.

24          “(b) APPLICATION TO CERTAIN BARGES.—One year  
25          after the date of enactment of this Act, the Secretary may

1 assess a civil penalty under section 4703 against an owner  
2 or operator of a barge abandoned before June 11, 1992.

3 **SEC. 3. CLERICAL AMENDMENT.**

4 The analysis of subtitle II at the beginning of title  
5 46, United States Code, is amended by inserting after the  
6 item relating to chapter 45 the following:

“47. Abandonment of barges ..... 4701”.

7 **SEC. 4. NUMBERING OF BARGES.**

8 Section 12301 of title 46, United States Code, is  
9 amended—

10 (1) by inserting “(a)” before “An undocu-  
11 mented vessel”; and

12 (2) by adding at the end the following:

13 “(b) The Secretary shall require an undocumented  
14 barge 100 gross tons operating on the navigable waters  
15 of the United States to be numbered.”.

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United States General Accounting Office

**GAO**

**Testimony**

Before the Committee on Merchant Marine and Fisheries,  
Subcommittee on Coast Guard and Navigation, House of  
Representatives

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For Release  
on Delivery  
Expected at  
2 p.m. EDT  
Wednesday  
June 10, 1992

**COAST GUARD**

**Abandoned Vessels Are  
Polluting the Waterways**

Statement of  
John H. Anderson, Jr. Associate Director  
Transportation Issues,  
Resources, Community, and  
Economic Development Division



Mr. Chairman and Members of the Subcommittee:

We appreciate the opportunity to testify on the problem of vessels abandoned in the nation's waterways. Abandoned ships, barges, and other types of vessels in coastal and inland waterways have not only fouled the marine environment with pollutants such as diesel fuel but in several cases have become illegal dumps for hazardous materials, such as herbicides banned for use by the Environmental Protection Agency (EPA). The Subcommittee is now considering legislation to address these problems. As part of its efforts, the Subcommittee requested that we determine (1) the number of vessels that have been abandoned nationwide, (2) the extent of environmental problems caused by abandoned vessels and the associated costs, and (3) the adequacy of federal laws and regulations on abandoned vessels.

In summary, although we have not yet completed our work, our preliminary information shows the following:

- Almost 1,300 vessels lie abandoned in our nation's waterways, predominantly along the commercially important East and Gulf coasts and the eastern inland waterways. The number of abandoned vessels is likely greater because the U.S. Coast Guard's recently completed search did not include all waterways.
- Since 1988 abandoned vessels have caused 82 incidents of water pollution nationwide, threatening marine animal and plant life. In 14 additional incidents, the Coast Guard was able to intervene to prevent a spill. Of these 96 incidents--involving almost 2 million gallons of pollutants--15 included hazardous materials that had been illegally dumped into abandoned vessels. Furthermore, \$4.4 million has been spent, mostly by the federal government, since 1988 to clean up the pollutants from these abandoned vessels.
- Federal laws do not prohibit owners from abandoning vessels and do not ensure that all vessel owners can be identified. More specifically, federal law (1) does not prohibit an owner from abandoning a vessel and (2) does not require that some barges--which constitute almost half of the current abandoned vessels--be registered with the Coast Guard so that their owners can be identified. Without laws that provide penalties for vessel abandonment, there are no disincentives to discourage future abandonments and the federal government will likely incur costs to clean up resulting pollution.

VESSELS ARE ABANDONED IN  
WATERWAYS THROUGHOUT THE NATION

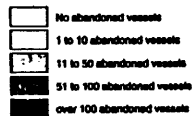
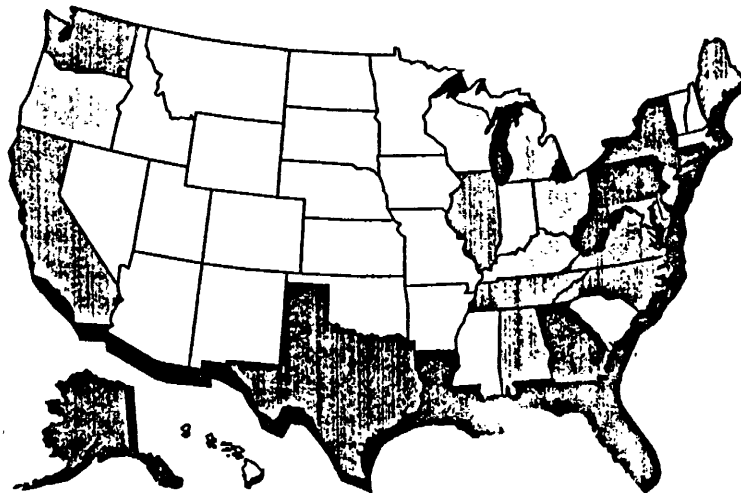
According to the Coast Guard, approximately 1,300 vessels are abandoned in our nation's waterways, predominantly along the East and Gulf coasts and eastern inland waterways, which have a high level of waterborne commerce.<sup>2</sup> Coast Guard officials in 38 of the agency's 45 field offices reported at least one abandoned vessel in their area of jurisdiction. Coast Guard officials in three states, (Florida, Louisiana, and Pennsylvania) each reported over 100 abandoned vessels. Of the abandoned vessels, almost 600 are barges and another 328 are other types of commercial vessels, such as fishing boats. The remainder are recreational vessels.

Figure 1 shows Coast Guard estimates of the number of abandoned vessels reported by Coast Guard field offices.

<sup>1</sup>A barge is a flat-bottomed vessel used for transporting freight, including bulk liquids, or passengers. It usually has no propulsion system and is intended to be pushed or towed.

<sup>2</sup>To determine the number of abandoned vessels currently in our nation's waterways and the problems they cause, we sent a questionnaire to and received responses from all 45 Coast Guard field offices responsible for waterways throughout the United States.

Number of Abandoned Vessels Estimated by Coast Guard Field Offices



As a result of our inquiry, in August 1991 Coast Guard field offices began to search for abandoned vessels. The information we compiled was, in large part, based on the results of this search. According to Coast Guard headquarters officials, however, some additional abandoned vessels exist in certain remote areas not included in the Coast Guard's search.

The U.S. Army Corps of Engineers is responsible for removing wrecked vessels that obstruct navigation in our nation's most important waterways. We plan to discuss the Corps' role in dealing with abandoned vessels in our final report which we anticipate will be issued this summer.

ABANDONED VESSELS POLLUTE THE  
MARINE ENVIRONMENT AND WILL  
COST MILLIONS TO CLEAN UP

From January 1, 1988, through September 30, 1991, the Coast Guard investigated 96 incidents in which abandoned vessels either spilled or could have spilled almost 2 million gallons of pollutants. Although 85 percent of these incidents involved an actual spill, the Coast Guard was able to prevent all but 7,282 gallons from entering the water. The potential for additional pollution from abandoned vessels is much greater because most abandoned vessels have not been investigated. Over 40 percent of the 45 Coast Guard field offices reported at least one spill from an abandoned vessel. Such incidents generally occur when pollutants such as fuel oil, left onboard when the vessels are abandoned, leak into the waters, threatening marine animal and plant life.

The Clean Water Act<sup>3</sup> prohibits any discharge of oil or other hazardous material into waterways. CERCLA<sup>4</sup> imposes liability upon several parties for the costs of cleanup due to the disposal of hazardous substances, such as chemicals without a federal permit. Under both the Clean Water Act and CERCLA, the Coast Guard can order owners of vessels to respond to spills of pollutants. If owners are unresponsive or cannot be identified, the Coast Guard can respond and then assess the owners, when they can be identified, for the cost of cleaning up the pollution.

For example, the Coast Guard learned of one instance of pollution from an abandoned vessel in August 1989 when an anonymous caller reported oil in the Elizabeth River to the Coast Guard field office in Hampton Roads, Virginia. Coast Guard investigators determined that 2,500 gallons of diesel and waste oil had leaked from a partially sunk, abandoned commercial fishing vessel. Although owners are responsible for spill cleanup, two parties disputed ownership of the vessel and neither took responsibility for reporting or cleaning up the spill. Consequently, the Coast Guard hired a contractor to clean up the spill at a cost of about \$22,000 to the federal government. The Coast Guard has initiated legal action against responsible parties.

The Coast Guard also reported that, in some cases, abandoned vessels have been used as disposal sites for hazardous materials such as herbicides banned by the EPA. Under the Resource Conservation and Recovery Act, parties who dispose of hazardous materials illegally are subject to fines and penalties.<sup>5</sup> In addition, under the Clean Water Act, vessel owners are liable for federal cleanup costs. About 16 percent of the incidents associated with abandoned vessels since 1988 have involved illegally dumped hazardous materials.

<sup>3</sup>The Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, et seq.), is referred to as the Clean Water Act.

<sup>4</sup>The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, is referred to as CERCLA.

<sup>5</sup>Resource Conservation and Recovery Act, 42 U.S.C. 6928(d).

For example, in 1989 Coast Guard officials in New Orleans found that two abandoned barges in Empire, Louisiana, had leaked 1,000 gallons of illegally dumped waste petroleum products into a waterway. Because one owner was deceased and the other was bankrupt, the Coast Guard contracted for the removal and disposal of 210,000 gallons of waste material at a cost of approximately \$835,600 to the federal government. To prevent further illegal dumping, all openings on the barges were secured with locks and chains.

However, when we visited the Empire site with Coast Guard officials in August 1991, we found that the locks and chains had been broken and illegal dumping had resumed, and hazardous material was again leaking into the water. The Coast Guard determined that about 300 gallons of waste chemicals and petroleum products had leaked from one of the barges, damaging local oyster beds, crustaceans, plants, and marine animals. Using CERCLA authority, Coast Guard contractors began to remove an estimated 571,200 gallons (285,600 gallons from each barge) of hazardous materials. Cleanup work is still under way at an estimated cost of \$1.7 million. No legal action has been taken on this incident because the dumper has not been identified.

Before passage of the Oil Pollution Act of 1990 (P.L. 101-380, Aug. 18, 1990), federal agencies had authority to remove abandoned vessels causing or threatening to cause pollution of the nation's waterways only under limited circumstances. Under the act, however, the Coast Guard has broader discretionary power to remove an abandoned vessel with pollutants--including fuel and bilge oil--on board if the Coast Guard determines that there is a substantial threat of a discharge. In making a determination to remove a vessel, the Coast Guard should consider all relevant facts and circumstances, such as vessel age, condition, and location, as well as the agency's experience with illegal dumping of hazardous materials in the area. Owners are responsible for vessel removal costs.

The Coast Guard estimated that \$4.4 million was spent from January 1, 1988, through September 30, 1991, to clean up pollutants from abandoned vessels.<sup>6</sup> Half of the cleanup efforts cost less than \$10,000 each and another 41 percent cost between \$10,000 and \$100,000 each. Future costs, however, could be much higher, particularly if the Coast Guard identifies a significant number of abandoned vessels that contain large amounts of pollutants. The Empire, Louisiana, site alone, for example, may cost about \$1.7 million. Of the 96 total pollution incidents resulting from abandoned vessels since 1988, 51 cases required expenditure of monies to clean up the pollutants. Of these 51 cases, owners paid all costs in 6 cases, partial costs in 5 cases, and none in the remaining 40 cases, which were paid by the federal government.

FEDERAL LAWS DO NOT DISCOURAGE FUTURE  
ABANDONMENTS OR ENSURE THAT OWNERS  
ARE HELD ACCOUNTABLE FOR DAMAGES

Even though abandoned vessels are currently causing or threatening pollution damage nationwide, no federal laws specifically prohibit abandonments or require that barges are registered so that owners can be identified and held accountable. Without disincentives, additional abandonments and pollution incidents will likely continue to occur and the Coast Guard may have to clean up or remove many of the vessels using federal funds.

Abandonments Are Not Currently Illegal

No federal law prohibits owners from abandoning vessels in waterways. However, the River and Harbors Act of 1899, as amended (33 U.S.C. 409), makes it unlawful for vessels to obstruct, impede, or endanger navigation of federally maintained channels and

<sup>6</sup>The Coast Guard spent funds established by the Clean Water Act or CERCLA, depending upon whether the polluting material was petroleum or chemicals, to cleanup spills from abandoned vessels.

empowers the Army Corps of Engineers to remove and destroy vessels that are effectively abandoned in order to keep the channels clear.

In addition, owners are not discouraged from abandoning vessels for any economic reasons. First, an owner cannot be fined unless the vessel obstructs a channel. Second, according to Coast Guard and Corps of Engineers officials, owners often abandon derelict vessels instead of selling them as scrap metal because the cost of scrapping the vessels may be greater than the scrap value. For example, two barges in New Orleans yielded about 260 tons of scrap steel, which had a value of \$2,900 but cost \$1.3 million to clean up and over \$300,000 to remove and dispose of the vessel. Unless some legal or economic disincentives are created, abandonments are likely to continue.

#### Owners Are Not Being Identified Through Vessel Documentation

While it is not illegal to abandon a vessel, federal law holds owners financially responsible for pollution that occurs because of the vessel. However, the owners of abandoned vessels often cannot be held accountable for spill cleanup because almost half either cannot be identified or are bankrupt. In these cases, the costs of cleaning up pollution or removing the vessel will come from the Oil Spill Liability Trust Fund for petroleum pollutants or from the CERCLA Hazardous Substance Superfund for chemical pollutants.

The Coast Guard administers a vessel registration system, referred to as vessel documentation, to ensure that U.S. vessels are qualified to engage in various trades (such as fishing) or commerce (such as transporting cargo within the United States). Owners must renew vessel documentation annually; this process thus provides a record of vessel owners. Historically, barges that use inland waterways have been exempt from documentation laws.<sup>7</sup> However, owners may choose to document barges for various reasons, such as to obtain a marine mortgage on the vessel. About 27,000 barges are currently documented, but the Coast Guard estimates that 14,000 barges are not. Because of these exemptions, the Coast Guard cannot identify many owners of abandoned barges and hold them responsible for pollution and related costs.

- - - -

In conclusion, Mr. Chairman, the abandoned vessels currently located throughout the nation's waterways potentially require the additional expenditure of a significant amount of federal funds. The vessels often contain pollutants such as fuel oil that can leak into the water, and some of the vessels are being used for illegal dumping of hazardous materials. Spills from the vessels have damaged the environment, and additional releases of pollutants from these vessels pose a constant threat. Because about half of the owners of current abandoned vessels cannot be identified or are bankrupt, the federal government is likely to continue to bear the cost of cleaning up spills from the vessels or--when the Coast Guard considers it necessary--removing the vessel.

To minimize both further environmental damage and additional expenditure of federal funds, it is important to prevent future abandonments and to identify owners of abandoned vessels. Currently, however, no federal law makes abandonment illegal or establishes penalties to deter it. In addition, no law exists requiring barge owners to register their vessels with the Coast

<sup>7</sup>See 46 U.S.C. 12110(b). Barges were exempted from documentation laws as early as 1793 because (1) barges had a short useful economic life and (2) unpowered barges could not be easily transported, as required, to one of a few ports where documentation was accomplished. These original justifications for exemption from documentation are no longer relevant because barges now have a useful economic life of about 40 years and documentation is accomplished by mail.

Guard. We plan to issue our final report on this subject this summer, which will also include additional information about the problem.

This concludes my prepared remarks, Mr. Chairman. We would be pleased at this time to respond to any questions that you or other Members of the Subcommittee may have.

(344464)

DEPARTMENT OF TRANSPORTATION

U.S. COAST GUARD

STATEMENT OF CAPTAIN ROBERT C. NORTH

ON THE ENVIRONMENTAL THREAT OF ABANDONED VESSELS

BEFORE THE

SUBCOMMITTEE ON COAST GUARD AND NAVIGATION

COMMITTEE ON MERCHANT MARINE AND FISHERIES

HOUSE OF REPRESENTATIVES

JUNE 10, 1992

## CAPTAIN ROBERT C. NORTH, U.S. COAST GUARD

Captain Robert C. North is presently serving as Deputy Chief, Office of Marine Safety, Security and Environmental Protection, U.S. Coast Guard Headquarters, Washington, DC. Previous assignments include: Chief, Traveling Inspection and Evaluation Staff, U.S. Coast Guard Headquarters; Group Commander and Captain of the Port of New York and New Jersey; Executive Officer, Marine Inspection Office, New Orleans, LA; Assistant Chief of the U.S. Coast Guard Marine Safety School; Deck Watch Officer aboard the CGC WESTWIND; and numerous other marine safety headquarters and field office assignments.

Captain North is a native of Baltimore, MD. He is a graduate of the Baltimore Polytechnic Institute, State University of New York Maritime College at Fort Schuyler and the U.S. Army War College, Carlisle, PA. His military decorations and awards include the Legion of Merit, Meritorious Service Medal, Coast Guard Commendation Medal, Coast Guard Achievement Medal, and numerous unit citations and special operations service awards. He is married to the former Sharon Sells of Corpus Christi, TX and presently resides in Chester, MD.

DEPARTMENT OF TRANSPORTATION  
U. S. COAST GUARD  
STATEMENT OF CAPTAIN ROBERT C. NORTH  
ON THE ENVIRONMENTAL THREAT OF ABANDONED VESSELS  
BEFORE THE  
SUBCOMMITTEE ON COAST GUARD AND NAVIGATION  
COMMITTEE ON MERCHANT MARINE AND FISHERIES  
HOUSE OF REPRESENTATIVES  
JUNE 10, 1992

Good afternoon, Mr. Chairman and distinguished members of the Subcommittee. I am Captain Robert North, Deputy Chief of the Office of Marine Safety, Security, and Environmental Protection. Thank you for this opportunity to address you today on the subject of abandoned vessels, the environmental threat they pose, and the alternatives for dealing with them.

I would like to begin today by giving you some background on the abandoned vessel issue and then discuss briefly the draft legislation that has been provided to the Coast Guard.

You will recall that last year this Subcommittee heard the testimony of Captain William Loefstedt at a hearing on this subject in New Orleans, Louisiana. That hearing generated a request to the General Accounting Office to conduct an independent survey of abandoned vessels and to assess the extent of the problems they pose on a nationwide basis. We have not seen the final report of that survey, although GAO conducted an exit conference with my staff several weeks ago. I look forward to seeing the report. I believe it will be a valuable first step in establishing the scope of this problem and will therefore

figure prominently in fashioning a solution. Based on the exit conference, we understand GAO has estimated that about 1,300 vessels have been abandoned along or in waterways they surveyed. This number includes a full spectrum of vessel types from dry cargo barges and tank barges to self-propelled vessels such as tugboats, fishing vessels, and pleasure craft. While I will defer to the findings of the GAO team, I suspect that identifying and locating the owners of these abandoned vessels will be very difficult in most cases.

Just as these vessels represent a variety of types, they also represent a variety of threats to safety and the environment. It is our experience that the majority of them pose very little threat. Often they are small craft or open dry cargo barges which are free of pollutants and well away from navigable waterways. Others, by their proximity to those waterways, may simply pose a hazard to safe navigation. Finally, there certainly are those abandoned vessels which pose legitimate threats to the environment, either because they have pollutants on board or because they provide a convenient dumping place for pollutants.

As you well know, we have been dealing with a number of incidents that fall into the latter category in the Mississippi River basin. In a recent incident, the Coast Guard Marine Safety Office in New Orleans completed the removal of over 500,000 gallons of hazardous wastes from two barges in Empire, Louisiana.

Despite having been cleaned previously at a cost of over \$800,000, and despite our efforts to secure the barges, these vessels were reused as illegal waste chemical dumps, until we removed them, to preclude them from being used again. I believe the GAO audit will confirm that this illegal use of such vessels poses the greatest threat to the marine environment.

I hasten to reiterate that, from our experience, most of these abandoned vessels offer little potential for such dumping and, in fact, present minor, if any, pollution risk. Overall, we have experienced few spills from abandoned vessels.

In those cases where there is a substantial threat to the environment, however, the evaluation and mitigation of that threat can be very time-consuming and costly. The process typically begins with an extensive investigation to identify and locate the owner. If the owner is located, he will be ordered to take action to alleviate the threat to the satisfaction of the predesignated Federal On-Scene Coordinator or "FOSC". If no owner is found, or the owner fails to act, the FOOSC assumes that role and takes the necessary actions to alleviate the threat. Each tank of a tank vessel is treated as a hazardous waste site until sampling and analysis shows otherwise. Based on the sample analysis, a response plan and site safety plan are developed. Subsequent contracting for the actual cleanup and removal is then done in accordance with specific Federal requirements.

If no responsible party (vessel owner or operator) is located, removal activities are funded by the Oil Spill Liability Trust Fund where the threat is oil, or by the Superfund of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) if the threat is hazardous chemicals. Response costs can be very high, especially when dealing with abandoned tank barges involving hazardous materials. I earnestly hope the GAO audit will help provide sound data to help us gauge the magnitude of the potential problem and estimate the amount of funding likely to be necessary to assess and eliminate the environmental threat.

The existing authorities for oil or hazardous substances cleanup actions are generally clear and adequate. Where the threat to the environment is from oil, we use the Federal Water Pollution Control Act, as amended, commonly called the Clean Water Act, and elements of the Oil Pollution Act that have not been incorporated into the Clean Water Act. Where hazardous substances or pollutants and contaminants are involved, CERCLA provides the authority. The Rivers and Harbors Act of 1899 provides authority for the U.S. Army Corps of Engineers to remove abandoned vessels which pose a hazard to navigation. These laws include as part of their response provisions the authority to destroy barges that pose a threat to the environment.

The Coast Guard has placed extensive internal safeguards on the exercise of its removal authorities under the Clean Water Act and

CERCLA. These include requiring approval by the Commandant for each vessel destruction. Where we have used these authorities, they have been effective and efficient.

I must emphasize that the Coast Guard is not the only agency impacted by abandoned vessels. The Environmental Protection Agency (EPA) provides the predesignated Federal On-Scene Coordinators (FOSC) for the inland region which includes most inland rivers and waters. I don't believe that all these waters were included in the GAO survey, but there are clearly some abandoned vessels in areas where the EPA has FOSC responsibility. Our authorities and responsibilities in assessing and responding to these threats must remain consistent with the National Oil and Hazardous Substances Pollution Contingency Plan. It would be improper for the Coast Guard to be charged with assessing threats and undertaking response in EPA's inland region or for them to do the same in our coastal region.

The fact that these vessels are abandoned indicates that a responsible party will probably not be located. This provides further vulnerability to the funds because it means that recovery of assessment and response costs from a responsible party is less likely than it is for most response actions. Additionally, abandoned vessels normally have little or no value so that it is unlikely that response or salvage companies will be willing to clean, remove, and destroy an abandoned vessel for its salvage value alone.

This leads me to a few comments on the draft legislation provided to my staff. The draft exemplifies good, aggressive public policy to address a potentially significant environmental problem on our nation's waterways. It is particularly good to see recognition that in this business "an ounce of prevention is worth a barrel of cleanup." When embarking on this legislative course, however, it is of particular importance to me that the degree of legislation be matched to the degree of threat. It is essential that, to maintain consistency with the National Contingency Plan, the threat be assessed by the FOSC and that no different standard apply.

I recommend that legislative efforts concentrate on areas where existing authorities and mechanisms for funding or cost recovery may have demonstrated shortcomings. In addition, I recommend we address all abandoned vessels rather than just barges.

Based on our experience, I think authorities that currently exist to deal with removal are largely sufficient and need no augmentation; however, I do feel we need a better method of linking abandoned vessels to their owners. This need is most applicable to barges since self-propelled vessels are currently covered by various identification systems. I do welcome the language clarifying that removal, performed in compliance with certain procedures, will be without Coast Guard liability to the owner, but there are many liability issues that need further development.

I would also like time to assess and comment on the cost/benefit aspects of the "permitting" and numbering provisions of the draft. I am particularly concerned that the "permitting" provisions could not be performed without a major infusion of new field resources or diversion of existing field resources away from existing critical environmental protection duties. I also note that the sanction provision in the draft is criminal only. As a practical matter, this limits enforcement options, and I would prefer to have a stiffer (say \$1,000 per day) civil penalty that an agency can assess without having to invoke the resources of the Department of Justice.

I have other minor observations about the draft, but I believe it would be more beneficial for our staffs to address these details informally. We also understand that the Department of Justice is reviewing this proposal and will provide comments at a later date.

In summary, we feel, that a legislative remedy to the problem posed by these vessels must, at a minimum have two qualities:

1. It must be consistent with the existing National Contingency Plan; and
2. It should not task the Coast Guard without providing the necessary funding, enforcement, and implementation tools.

My staff and I look forward to working with you to develop an effective approach to resolving the environmental threats posed by these vessels. This concludes my opening remarks. I will be happy to answer your questions at this time.

**Hearing on Abandoned Barges Legislation**

**Testimony of Cornel Martin  
Vice President - Southern Region  
American Waterways Operators**

**Before the Subcommittee on Coast Guard and Navigation  
Committee on Merchant Marine and Fisheries  
U.S. House of Representatives**

**June 10, 1992**

Mr. Chairman, members of the Subcommittee, my name is Cornel Martin and I am Vice President for the Southern Region of the American Waterways Operators (AWO). As you know, AWO is the national trade association representing the coastal and inland barge and towing industry, as well as the shipyards which build and service these vessels. Our industry provides over one half of the on-board jobs in the U.S. Merchant Marine.

It is indeed a pleasure to appear before you and your Subcommittee again. Since I left the Subcommittee staff three years ago, this is my second opportunity to appear before you as a witness, but it still feels a little strange sitting on this side of the microphone. Mr. Chairman, let me take a moment to congratulate you on the fine job you are doing as Chairman of this Subcommittee. Your responsiveness to the needs of the Coast Guard and your ability to balance the needs of industry with what is in the public's best interest is appreciated by both our members and the general public. Hopefully, this hearing will help us to strike a reasonable balance where this issue is concerned.

Turning to the subject at hand, I must first express AWO's concern that this issue is now being described as "... the problems associated with barges which are abandoned on our nation's navigable waterways." Although we only have some preliminary data from the General Accounting Office's (GAO) unfinished investigative study you requested -- and which was then described as the "extent of the abandoned vessels problem ..." -- it is clear from this data that barges compose less than half of the inventory identified so far. Specifically, it is our understanding that the GAO had identified approximately 1300 abandoned vessels, made up of 600 unpowered vessels, 328 commercial fishing vessels, and 372 recreational or "other" vessels. Thus, assuming barges comprise all of the 600 unpowered vessels, as I previously indicated, this amounts to less than half of the identified abandoned vessel inventory.

We believe that it is important to keep this fact in mind because ownership and disposition of the vessels in our barge fleets are already subject to extensive Coast Guard and Corps of Engineers mandatory reporting and registration requirements replete with civil and criminal penalties for failure to comply. And, while it must at the outset be noted that abandonment is not per se currently prohibited as an unacceptable form of vessel disposal (unless the vessel is obstructing or threatening navigational safety or causing or threatening water pollution), our members believe that the bulk of the current inventory of abandoned barges developed during the extremely depressed waterborne economy of the 1980's, and was exacerbated by the proliferation of "fly by night" operators who entered the business primarily to take advantage of the then existing investment tax structure. When a depressed market lessened demand for barges, these operators, without the benefits of the repealed tax credit, simply abandoned their equipment; they were not part of the core/traditional waterborne barge industry whose members operate responsibly and are in the business for the long haul.

Thus, it is our opinion that at least to the extent we are discussing the abandoned barge portion of the abandoned vessel problem, this derelict inventory is not growing at some alarming or regular/annual rate. As a result, we believe the solution to the problem should initially focus on removing this existing derelict inventory. What specific changes in the law are necessary to prevent future buildups, is an issue which we believe will be more fully understood after the GAO has completed its work and their findings and recommendations have been analyzed and discussed. As a common point of departure, however, it certainly appears environmentally prudent that vessel "abandonment" should not generally remain a sanctioned form of disposal as it is today under current law.

Concerning the clean-up and removal process for the existing abandoned vessel inventory (to the extent that liability for removal of otherwise properly abandoned vessels is present), and for future post enactment abandonments made illegal under your proposed legislation, identifying the owner for purposes of establishing financial responsibility is obviously an important component. As I referenced earlier, the vessels in our industry are already subject to extensive annual reporting requirements covering ownership and vessel disposition.

Specifically, Corps of Engineers regulations issued pursuant to the Rivers and Harbors Act (42 Stat. 1043) as amended by the 1986 Water Resources Development Act, require

annual documentation by vessel operators for waterborne transportation lines and vessels of American registry engaged in domestic or foreign commerce. (Excluded from this reporting requirement are, "general ferries, floating equipment used in construction work i.e., dredges, piledrivers, flats, fishing vessels, and recreational craft.") As part of this mandatory annual filing process, vessel operators (on Form ENG 3931), are required and directed to, "... strike through those vessels listed which are no longer operated by you and indicate disposition under 'Remarks,' i.e. sold to (give name and address of purchaser): scrapped; abandoned; sunk; etc." Parenthetically, it is obvious that abandonment is indeed a sanctioned and acceptable form of disposal in the context of this filing. The only information not now required is -- abandoned -- where? In addition, no information is required on fishing vessels and recreational craft which are identified by the GAO as comprising over one-half of the abandoned vessel fleet.

Lastly, and importantly, the law provides that failure to report can result in a fine of \$5000 or imprisonment not exceeding two months and/or a civil penalty of up to \$2500 for each vessel not reported ...

As you of course know, the Coast Guard also requires and maintains extensive documentation and certification records for many of our vessels, which begins when the vessel is initially put in service and continues as part of the required renewal-inspection process until the vessel is taken out of service. At that point, the Coast Guard removes the required inspection certificates and, in the case of a tank barge, requires the operator to obtain a certificate certifying that the vessel is "gas free." It appears that, unlike the Corps' requirements, after a vessel is taken out of service, and, where necessary, a "gas free" certification is obtained, the Coast Guard does not seek to determine the final disposition of the vessel in question.

Given this existing paper trail and particularly considering the previous discussion concerning the Corps' extensive record keeping requirements, coupled with their ability to assess significant fines and imprisonment, it appears to us that a legal and regulatory framework already exists to adequately track the ownership and whereabouts of the bulk of our industry's barge fleets. Whether this system has indeed been adequately or fully utilized by the relevant agencies is certainly an area which we believe this Subcommittee should explore -- particularly as it relates to the enforcement provisions to ensure that in the future vessels are indeed properly disposed of and accounted for.

Concerning the issue of establishing authority to remove these abandoned vessels, particularly where hazardous substances remain or have been disposed of in these vessels, as you know from testimony presented by Captain Lofstedt during last year's April 29 field hearing, the Coast Guard asserts that under the Oil Pollution Act and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) it already has authority to remove any product found in these vessels, remove or destroy the vessel/receptacle, and fund such an effort utilizing CERCLA funds.

It should also be noted here that in our home state of Louisiana, Senate Bill 1075 has been introduced to authorize the State Oil Spill Coordinator to "locate, identify, mark, and analyze the contents of any abandoned or derelict vessels ... (and) establish a priority for removal ...". The bill also includes language found in present law authorizing the Oil Spill Coordinator to spend up to one million dollars per year to remove such vessels if the owners cannot be located. I spoke with Mr. Roland Guidry, Louisiana's Oil Spill Coordinator, last week and he advised that he felt confident the bill would be signed into law. He also advised that the money for the first year or so would be spent mostly on identification and establishing a priority list. I understand he is working closely with Coast Guard marine safety offices in New Orleans and Morgan City to coordinate that effort.

Turning to the legislation which has been developed to address this problem, we make the following observations:

- 1) As stated earlier in my testimony, given that GAO data indicates that barges represent less than one half of the abandoned vessel inventory, we believe the bill should properly address the *entire* derelict inventory including fishing and recreational vessels, which beyond the "visual" pollution caused by their presence, also pose a similar threat of oil and other chemical leakage, spills, etc., as do barges albeit in

potentially smaller quantities;

- 2) While we appreciate the jurisdictional problems caused by specifically adding the Corps of Engineers to the bill's coverage, given its important role in our industry regarding record keeping and operational considerations, any bill which attempts to address this issue should clearly reflect the Corps role and provide for full cooperation and coordination by the Coast Guard and the Corps;
- 3) The bill has correctly recognized that barge fleets are routinely moored for periods of time in federal, state, or privately authorized areas and this operational necessity should not be hindered by any new regulations or paperwork requirements;
- 4) We note that draft Subsection (b) places the burden of funding the removal of an abandoned barge on the barge and its cargo. Given the general derelict condition of the vessels in the current abandoned vessel inventory, this would appear to be at best a speculative source of future funding, potentially fraught with administrative costs related to sale. We further note that the draft bill includes no other funding authorization for removal expenses not offset by the sale of the barge and cargo, which in many cases would not be sufficient to cover the costs of removal/disposal;
- 5) Draft Subsection (b)(2) provides that indemnification expenditures will be charged against the Oil Spill Liability Trust Fund as removal costs. We very much oppose this provision.

As you know, Mr. Chairman, it is common knowledge that OMB is intent on husbanding the Trust Fund for deficit reduction purposes and not allowing it to be fully utilized as was intended by Congress. You forcefully raised this point during last year's Certificates of Financial Responsibility hearing.

Thus, given the realities that we apparently face regarding a restricted use of the Fund, we oppose the bill's significant expansion of the exposure of the Fund to include pure tort claims based on the removal contractor's negligence which may in fact be totally unrelated to a discharge, or the substantial threat of a discharge of oil -- which now triggers liability and Fund coverage under OPA; and,

- 6) In Section 2, the bill recognizes the fact that most barges are already federally documented (as a prerequisite to obtaining appropriate trade endorsements or for business purposes such as obtaining a marine mortgage on a vessel) and correctly avoids duplication by addressing numbering requirements only for otherwise undocumented barges. We do not have information on the impacts such a state documentation system might generate -- i.e., cost impacts, fees required, etc. -- and therefore cannot comment on this aspect of the legislation.

In closing, Mr. Chairman, we share your view that better practices and procedures be instituted regarding vessel disposal, which also provide the funding necessary to cover the costs associated with removal and clean-up of the inventory of abandoned vessels; obviously to the maximum extent possible the owner of the vessel should be found and, where applicable, made to pay for clean-up and removal costs. In those situations where ownership cannot be established, or liability is not present for previously "legally" abandoned vessels, the Coast Guard, as referenced earlier, has indicated that CERCLA funds have already been used to address this problem. The one thing this industry does not need, and which you Mr. Chairman fully appreciate, is another fee of any kind which further burdens an already beleaguered industry. Indeed, you, and other members of this Subcommittee, have consistently expressed your concerns that the maritime industry is already operating under the strain of the cumulative impacts of the ever expanding lists of fees we are required to pay. Whatever course of action you choose to take to resolve this issue, please don't add another unnecessary cost here!